

# The United Nations Convention Against Corruption

A Global Response to the threat posed by Corruption to Peace and Economic Development

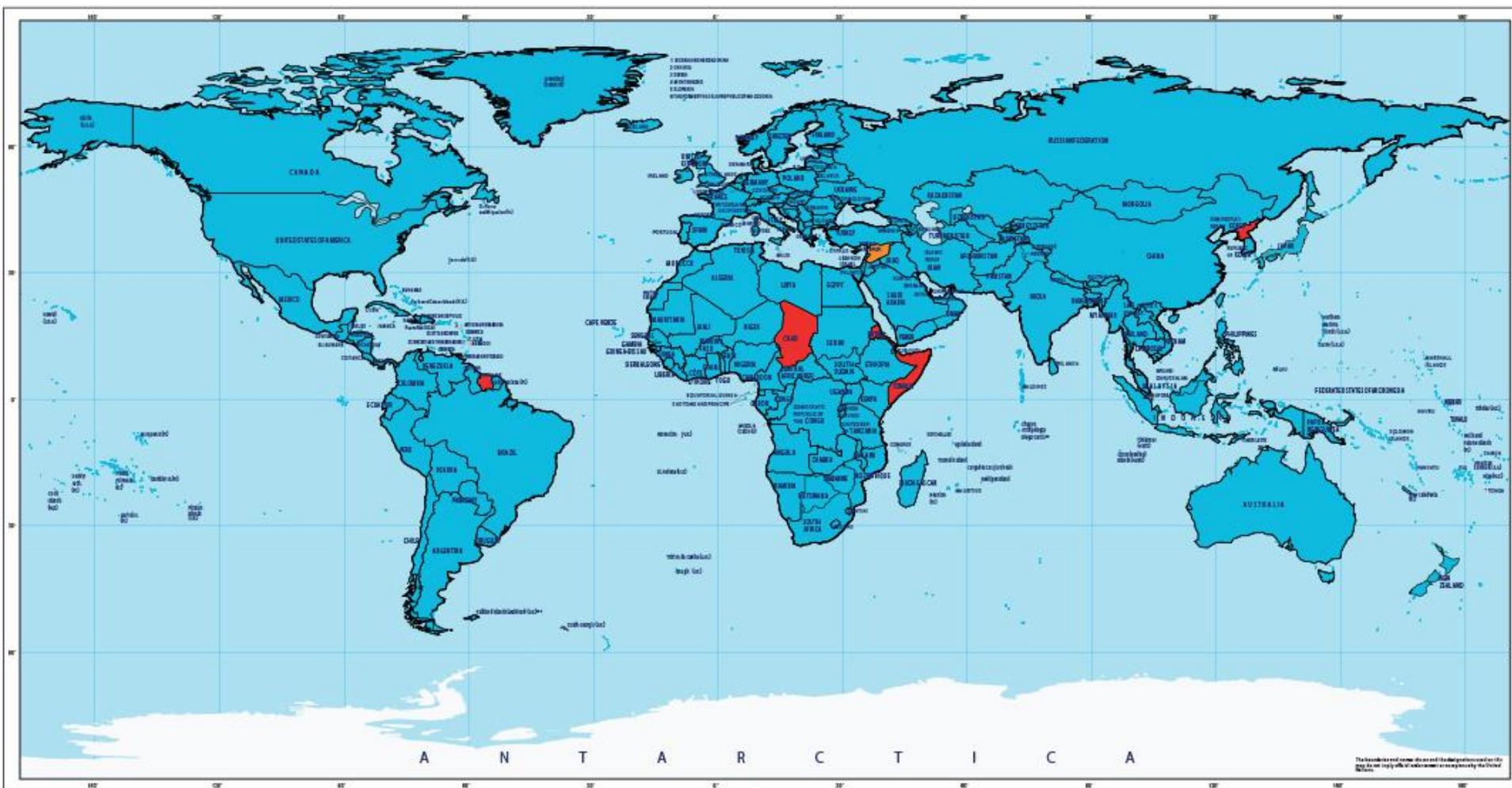




## Status and significance of the UNCAC

- Adopted by the United Nations General Assembly resolution 58/4 of 31 October 2003
- Entered into force on 14 December 2005
- 180 States parties, close to becoming universal in reach.

# UNCAC Signature and Ratification Status

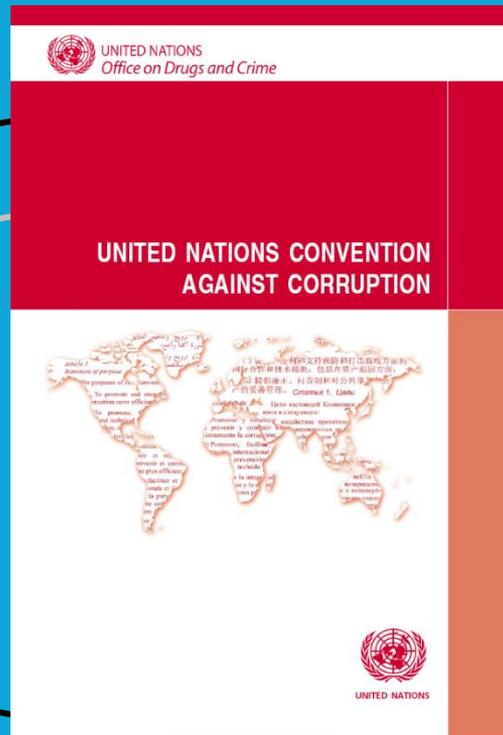


- States Parties
- Signatories
- Countries that have not signed or ratified the UNCAC

**Signatories: 140**  
**Parties: 185**

*Chapter II  
Preventive  
measures*

*Chapter III  
Criminalization &  
Law Enforcement*



*Chapter V  
Asset Recovery*

*Chapter IV  
International  
Cooperation*



## Public Procurement and Corruption: implications on development

- Procurement indispensable for achieving Government's development objectives.
- Governments are expected to minimize costs and maximize the value of the contracts, ensuring accessible and high quality outputs.
- Effective procurement system helps to address the real needs of the society, balancing public and private sector interests.



## Corruption as obstacle to governance, economy and social development

- corruption is a key governance challenge.
- corruption introduces uncertainty into economic life, undermining fair competition and investment activities.
- corruption flourishes where inequality is high and where institutions are ineffective, further exacerbating social exclusion and destroying trust.



## SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

- **16.3** Promote the rule of law at the national and international levels and ensure equal access to justice for all
- **16.4** By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- **16.5** Substantially reduce corruption and bribery in all their forms
- **16.6** Develop effective, accountable and transparent institutions at all levels
- **16.7** Ensure responsive, inclusive, participatory and representative decision-making at all levels
- **16.10** Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements



## Corruption as an obstacle to effective procurement

- Public procurement can account for up to 30 per cent of GDP.
- The size of the market, its GDP proportion and the required interaction between public and private sector makes it vulnerable to corruption.



## UNCAC Article 9, paragraph 1. Public procurement and management of public finances

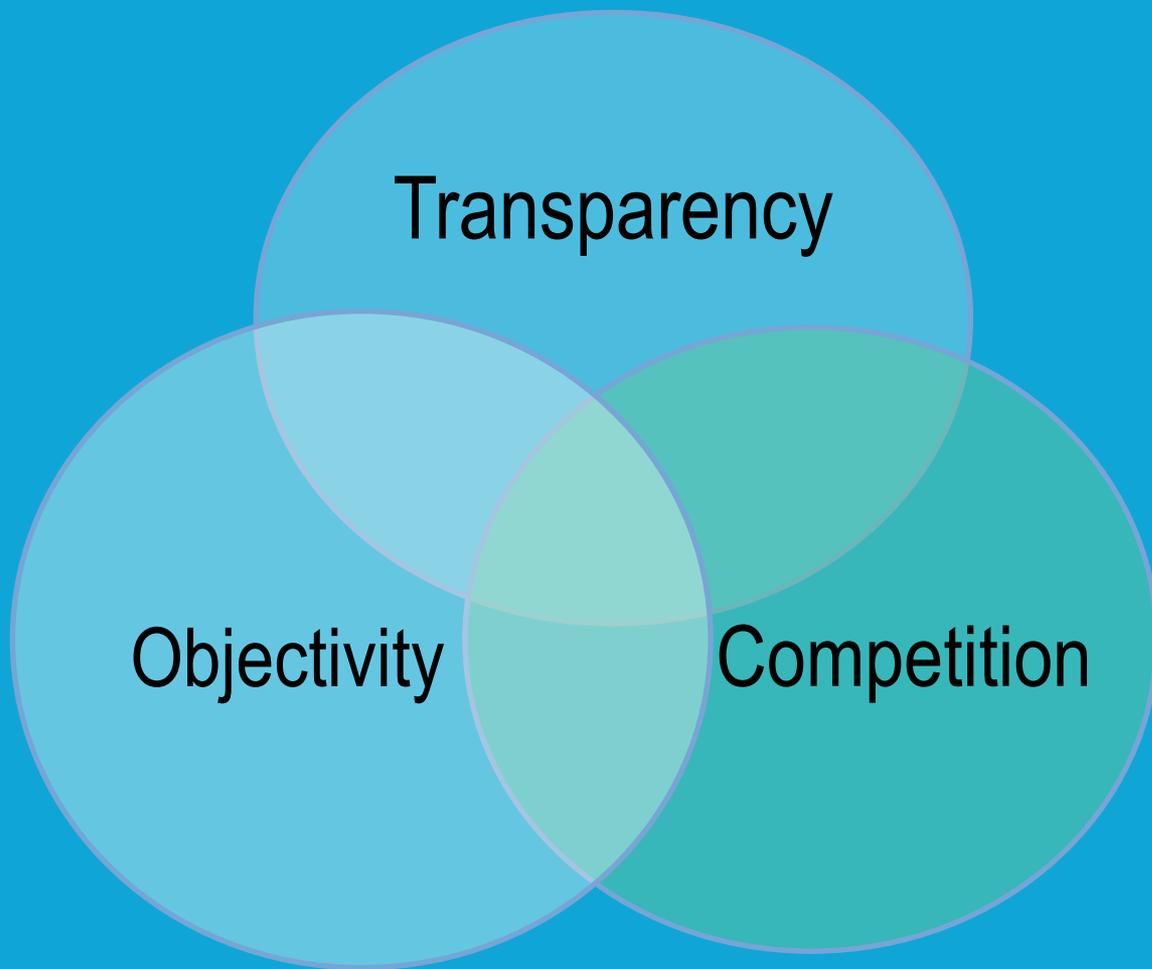
- Each State party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:
  - (a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
  - (b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
  - (c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
  - (d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
  - (e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.



**UNODC**

United Nations Office on Drugs and Crime

## Three Fundamental Principles of UNCAC: Article 9





## Transparency

- In procurement, transparency is understood as having three important elements:
- a/ open and transparent publishing of all procurement notices as well as the rules, criteria and standards
- b/ Procurement procedure open to public scrutiny
- c/ Putting in place a system that facilitates effective internal and external control



## Objectivity

- The principle of “**objective criteria in decision-making**” requires that all procurement decisions are justified and taken in accordance with predetermined criteria to avoid subjective bias.
- Early, transparent definition and publication of the criteria for participation and selection
- Drafting of technical specifications and terms of reference in a non- discriminatory manner.
- Use of open procedures.



## Competition

- Competition improves the efficiency of the market mechanisms and reduces the risks of bid-rigging and collusion.
- Competition may reduce the cost of procurement and may improve the quality of the services and goods.
- To ensure competition, technical specifications should be formulated broadly, in a generic, objective way
- All participants in the tender procedure should have sufficient (and equal) time to prepare and submit their offers



## Elements of the effective preventive framework: legislation, institutions and practices

- Legislative framework
- E-government and e-procurement
- Strong ethics infrastructure, including systems for managing conflicts of interest
- Specialized procurement oversight and anti-corruption bodies
- Protecting reporting persons
- Access to information and participation of society
- External control and external audit
- Risk management systems



## Legislative framework

- Specialized procurement laws
- Enabling legal framework for the whole public service
- Legal framework on the use of information and communications technologies
- Drafting and adoption of legislation: preliminary regulation impact assessment and public consultations



## E-government and e-procurement

- Procurement portals
  - Providing information, notices and allowing to download documents
  - Full fledged e-solutions which allow submission and bidding
  - Extended IT solutions with functionalities to track and monitor spending and implementation to detect irregularities.
- Public consultations on procurement plans



## Strong ethics infrastructure, including systems for managing conflicts of interest

- Code of conduct
- Training to ensure that staff has the knowledge and skills to apply the code
- Clear leadership (including leading by example);
- Functioning enforcement mechanism
- Conflict of interest management and disclosure mechanisms



## Specialized procurement oversight and anti-corruption bodies

- Procurement oversight bodies: centralizing procurement, corruption prevention, monitoring, review functions
- Specialized anti-corruption bodies
  - Preventive functions (art. 6 UNCAC)
  - Enforcement functions (art. 36 UNCAC)



## Effective Remedy Systems (Bid Protest System)

- Right to turn to a review body
- Independence of the review body
- Power to grant different type of remedies and corrective measures

Existing systems: specialized procurement review bodies or tribunals; bodies which are in charge of protection of competition; general system of administrative or civil courts.



## Access to information and participation of society

- Access to information: public reporting, limitations and procedures
- Increasing use of ICT solutions to provide access to information and to stimulate participation of society, including public consultations.



## External control and external audit

- The overall purpose of an external or state audit “is to carry out an appraisal of management’s discharge of its stewardship responsibilities, particularly where they relate to the use of public money, and to ensure that these have been discharged responsibly” (UNCAC Technical Guide)



## Risk management

- Article 9, subparagraph 2(b) of the Convention calls for establishment of an “effective system of risk management and control”
- Should be based on facts, past experiences and review of processes
- Proper prioritization important
- Plan to mitigate the identified risks



## Risk Mapping and Prevention – Pre-Tender Stage

- Needs assessment/market research
- Structuring of the bidding process:
  - ✓ *Tender documents*
  - ✓ *Procurement procedure*
  - ✓ *Time limits*
  - ✓ *Contractor qualifications*
  - ✓ *Minimum and selection criteria*
  - ✓ *Technical specifications*
  - ✓ *Award criteria*



## Risk Mapping and Prevention – Tender Stage

- Public notice
- Requests for clarification
- Public bid opening
- Evaluation of tenderers and tenders
- Publication of intended contract award and awarded contract



## Risk Mapping and Prevention – Contract Administration Stage

- Stage of procurement with high risk of corruption
  - ✓ Contract specification or scope inconsistent
  - ✓ Contractors do not perform as per agreement
  - ✓ Product delivered is not per specifications
  - ✓ Unjustified change in scope/orders
  - ✓ Contract changes
- Monitoring system are key



## Conclusions

- Article 9 of the Convention provides for a road map to strengthening integrity in procurement
- UNCAC may provide for a non-controversial and universally acceptable entry point for reforms.

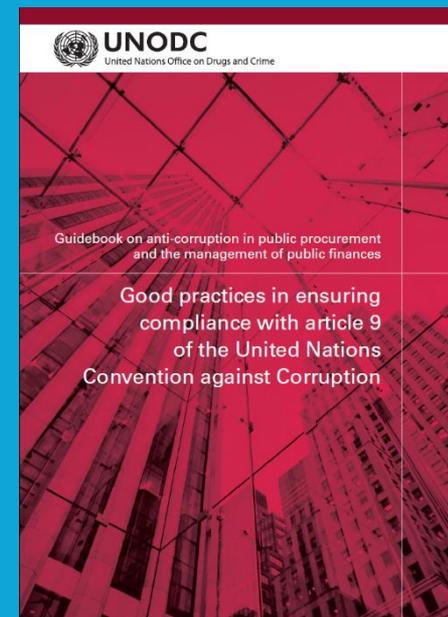
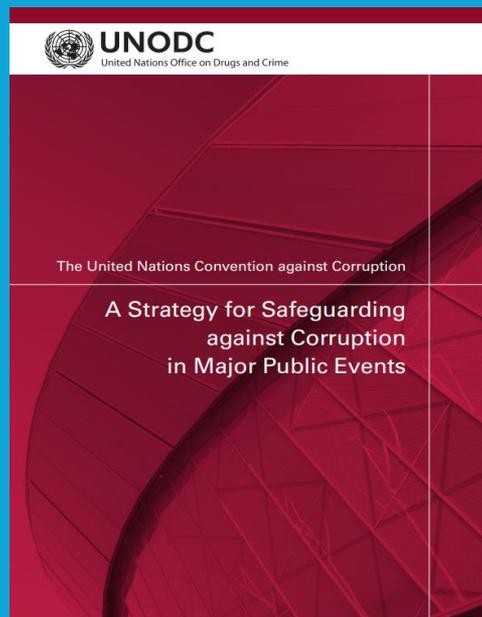


# UNODC

United Nations Office on Drugs and Crime

## UNODC Publications and Tools

<http://www.unodc.org/unodc/en/corruption/publications.html>





**UNODC**

United Nations Office on Drugs and Crime

**For more information:**

**[www.unodc.org/corruption](http://www.unodc.org/corruption)**

**[www.track.unodc.org](http://www.track.unodc.org)**



Corruption and Economic Crime Branch  
UNODC, Vienna

[Dimitri.Vlassis@unodc.org](mailto:Dimitri.Vlassis@unodc.org)